

**REMARKS**

Claims 4-7, 9-14 and 16-35 are pending. By this Amendment, claims 6 and 13 are amended to even further distinguish over the applied reference, and claims 1-3, 8 and 15 are cancelled without prejudice to or disclaimer of the subject matter recited therein.

Applicants wish to make the following two points so that the record for this application is clear. First, although the Office Action Summary (Form PTOL-326) indicates that the Office Action was a Final Action, the body of the Office Action does not indicate that the Office Action was made final. In addition, in a telephone conference with Examiner Fuller on September 2, 2004, Examiner Fuller confirmed that the Office Action was non-final. Second, while the Office Action Summary and item 1 on page 2 of the Office Action refer to Applicants' Amendment dated June 2, 2004, Applicants note that Applicants filed the Amendment (along with Petition for Extension of Time, Amendment Transmittal and IDS) on May 12, 2004, and then re-submitted those documents on June 2, 2004 at the request of the Examiner because the Patent Office apparently mis-placed the May 12 documents.

Applicants note with appreciation the identification of allowable subject matter in claims 21 and 23. Applicants respectfully submit that all pending claims are in condition for allowance, as detailed below.

Claims 1-20, 22 and 24-35 stand rejected under 35 U.S.C. §102(b) over U.S. Patent No. 5,025,284 to Komoriya et al. This rejection is moot with respect to cancelled claims 1-3, 8 and 15, and is respectfully traversed with respect to the remaining claims.

With respect to independent claims 4, 10 and 14, Komoriya et al. does not disclose or suggest the claimed step or structure of controlling a state of flow of the gas depending on a position of a stage which positions the second object. While the Office Action refers to col. 6, lines 15-18 of Komoriya et al., this portion of Komoriya et al. indicates that the flow of

gas is controlled based upon the detected barometric pressure. Komoriya et al. does not disclose or suggest controlling the state of flow of the gas based upon the position of the stage 21, and also does not recognize or address the issues described, for example, at page 7, line 20 - page 8, line 13 and in conjunction with the embodiment described at page 44, line 9 - page 50, line 13, of Applicants' specification.

With respect to independent claims 6 and 13, the Office Action asserts that the extended portion of tube 9 of the second embodiment of Komoriya et al. corresponds to a guide member having an aperture. For this embodiment (shown in Figs. 7 and 8), Komoriya et al. discloses extending the lower end of the tube (lens barrel) 9 from the lowest lens element 6 toward the wafer 22. See Fig. 7 and 8 and col. 5, lines 42-46. A controlled gas mixture is introduced into this extended portion of the tube 9 via intake port 32. (Although port 32 is called an "intake port" a better name might be a gas "introduction port" because, as is clear from the description and arrows emanating from port 32 in Figs. 7 and 8, gas is introduced into the inside of the tube 9 through the port 32.) Komoriya et al., however, does not disclose or suggest a guide member that is separate from the projection optical system as recited in claims 6 and 13. Thus claims 6 and 13, along with their dependent claims, are patentable over Komoriya et al.

With respect to independent claims 24, 27, 30 and 33, contrary to what is asserted in the Office Action, Komoriya et al. does not disclose or suggest a step of, or structure for, aspirating gas that has been supplied to the space between the second object and the tip of the projection optical system. Komoriya et al. only discloses supplying gas at ports 30 and 32. While port 31 is referred to as an exhaust port, Komoriya et al. does not disclose aspirating gas from port 31. Moreover, aspirating gas from port 31 would not correspond to aspirating gas that has been supplied to the space between the tip of the projection optical system and the second object (wafer 22 in Komoriya et al.). In this regard, the claimed aspirating feature

improves the removal of impurities that can be generated from the wafer, and also prevent contamination of surrounding devices by such impurities. See, for example, page 35, line 7 - page 36, line 9 of Applicants' specification.

Accordingly, all independent claims of this application are patentable over Komoriya et al. In addition, contrary to the assertions made in the Office Action, Komoriya et al. does not disclose the features of most of the dependent claims. However, because the independent claims are patentable over Komoriya et al., it is not necessary for Applicants to further discuss the dependent claims at this time. Withdrawal of the rejection based upon Komoriya et al. is requested.

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,



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MAC/ccs

Attachment:

Petition for Extension of Time

Date: February 22, 2005

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